THE HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REEDY

W.P.No.2846 of 2004

ORAL ORDER: (Per BPR,J)

Heard Sri T.Lakshminarayana, learned counsel for petitioners and the learned Government Pleader. Though notices were served on respondent No.2, there is no representation on his behalf.

The petitioners, who are the respondents before the Special Court under A.P. Land Grabbing (Prohibition) Act (for short 'the Act'), filed this writ petition, *inter alia* seeking Writ of Certiorari assailing the judgment and decree passed in L.G.C.No.40 of 2000 dated 18.12.2003 on the file of Special Court constituted under the Act allowing the Application filed by the second respondent herein purported to be under Section 8(1) of A.P. Land Grabbing (Prohibition) Act, 1982 and holding that the petitioners are the land grabbers.

The brief facts of the case are that the second respondent filed application before the Special Court claiming that he is the absolute owner of Plot bearing No.41 admeasuring 266.66 sq.yards in Survey No.149 and 150/1 (Paiki) of Tolichowki, Shaikpet village. According to him, the earlier litigation went against the petitioners and they are again claiming the very same plot in the said society which is not a valid and their claim is based upon fictitious documents. Hence the application.

The case of the petitioners is that the sale made in favour of second respondent by the society was cancelled on 6.9.1999 and later, the petitioners purchased the same and they have been in valid possession from the date of allotment made by the society and hence they cannot be called as land grabbers. With these and other allegations, the Special Court framed the issue and parties went into trial, where the second respondent himself examined as P.W.1 and marked documents Exs.A1 and A2, but no oral or documentary evidence has been adduced on behalf of petitioners. The

Special Court, after appreciating the evidence on record, held that the petitioners are the land grabbers. The main plea on behalf of the petitioners is to the effect that the Special Court under the provisions of the aforesaid Act has no jurisdiction in respect of the dispute arising among the members of the society. Hence this writ petition.

The learned counsel appearing on behalf of petitioners mainly contends that since the special remedy has already been provided under the provisions of the A.P. Cooperative Societies Act, 1964 for resolving such dispute, the Special Court could not have entertained the present application. In support of their case, the learned counsel placed reliance on the orders dated 20.9.2000 passed by the learned single Judge in W.P.No.22007 of 1999, where in similar circumstances and in respect of the very same society, some of the members therein sought to raise similar such questions which were rejected by giving liberty to the petitioners therein to avail remedies under the provisions of the A.P. Cooperative Societies Act. This submission was sought to be repelled on behalf of the respondents.

Having regard to the rival submissions and on perusing the material on record, the main question that arises for consideration in this writ petition is as to whether, in the facts and circumstances of the case, the Special Court under the provisions of the A.P. Land Grabbing (Prohibition) Act, 1982 has got any jurisdiction to entertain the present application in view of the remedy as provided under the A.P. Cooperative Societies Act, 1964.

There is no dispute in regard to the aforesaid chequered events, which led to the filing of the present case by the second respondent. No doubt, the second respondent was initially allotted a plot, which is said to have been cancelled and it had given rise to litigation and he had approached the Special Court seeking relief of permanent injunction against the petitioners treating them as land grabbers in respect of plot in question, whereas the petitioners also made a claim in respect of the same plot. In view of the same, the question involved in the present writ petition squarely falls within the

parameters of the dispute as contemplated under Section 62 of the A.P. Cooperative Societies Act, 1964. In fact it is the action on the part of the society in dealing with such plots while making the allotment between the parties is sought to be questioned, therefore it cannot be said that this aspect comes within the ambit of "land grabbers" as contemplated under the provisions of the Act as rightly pointed out on behalf of petitioners. While dealing with similar circumstances in W.P.No.22007 of 1999, by order dated 20.9.2000, learned single Judge of this Court Mr.Justice B.Sudershan Reddy (as he then was) directed the petitioners to avail the remedies under the provisions of A.P. Cooperative Societies Act.

Thus, the petitioners have efficacious and alternative remedy available under the provisions of A.P. Cooperative Societies Act, and as such the question of availing remedy in Special Court does not arise and if it is done, the same will be only misconceived and unsustainable.

In the result, the writ petition is accordingly allowed setting aside the judgment and decree of the Special Court under the Act in L.G.C.No.40 of 2000 dated 18.12.2003. It is needless to mention that it is open for the petitioners to avail remedies available as are open to them under the provisions of the A.P. Cooperative Societies Act and in case, the petitioners avail remedies, the same has to be enquired into and decided on merits in accordance with law uninfluenced by any of the findings of this Court in this writ petition. No order as to costs.

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B.PRAKASH RAO, J

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M.VENKATESWARA REEDY, J

Date: 9.2.2007

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THE HON'BLE SRI JUSTICE B.PRAKASH RAO

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W.P.No.2846 of 2004

9.2.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REEDY

W.P.No.2846 of 2004

Date: 9th February, 2006

Between:

T.Ramesh & another.

.. Petitioners

And

The Registrar, Special Court-under-
A.P. Land Grabbing (Prohibition) Act,
BRKR Bhavan, Tank Bund Road, Hyderabad & others.

.. Respondents